

# MEDICAL-LEGAL GLOSSARY

**CLAIM** - Written notice of a demand for monetary compensation.

**COMPLAINT** - The first pleading on the part of the plaintiff in a civil action.

**DEFENDANT** - The person against whom relief is sought in an action or suit.

**DEPOSITION** - Testimony taken under oath, but not in court, after notifying the adverse party so that he can attend and cross-examine. It is intended to be used at a subsequent court action.

**EMANCIPATION** - The act by which one is released from the power and control of another. In most states, total emancipation or freedom for a child normally occurs automatically at age 18.

**INFORMED CONSENT** - The legal concept holding that a physician must fully disclose the generally expected risks and benefits of a proposed treatment course as well as the risks and benefits of alternative treatment courses (including no treatment) so that a patient may make an informed decision regarding what treatment course, if any, they wish to pursue.

**JUDGMENT** - The official decision of a court regarding an action or suit submitted for its determination.

**JURISDICTION** - The authority by which courts and judicial officers hear and decide cases; the capacity, power, or right to act.

**MALPRACTICE** - Any professional misconduct, unreasonable lack of skill or fidelity in professional duties.

**MEDICAL MALPRACTICE PAYMENT REPORT** - The submission used by medical malpractice payers to report a medical malpractice

payment to the NPDB on behalf of a physician, dentist or other health care practitioner.

**MINOR** - A person who is under the age of legal competence.

**NATIONAL PRACTITIONER DATA BANK** - An information database, administered by the Department of Health and Human Services, regarding medical malpractice payments made and containing disciplinary actions affecting licensure taken by state medical boards, as well as adverse professional review actions taken by hospitals, professional societies, and other health care entities.

**PLAINTIFF** - A person who brings an action; the party who sues and is named on the record.

**PRIVACY ACT** - The law that establishes safeguards for the protection of federal systems of records the government collects and keeps on individual persons.

**PRO SE** - Acting for himself, e.g., when one appears in court without an attorney.

**RES IPSA LOQUITUR** - Literally, the thing speaks for itself. A rebuttable presumption created because the instrumentality causing injury was in the defendant's exclusive possession. An example would be surgical instruments subsequently found in a patient's abdominal cavity at laparotomy.

**SETTLEMENT** - An agreement by which parties terminate a dispute between them, usually by payment of a sum from one party to another.

**SUMMARY JUDGMENT** - A result reached by the court prior to a trial, because the factors relevant to court disposition relate only to matters of law.

**SUMMONS** - A writ notifying a person named that an action has been commenced against him and that he is required to appear and answer the complaint.

# OPEN FILE INDEX

## 1991-1997

### CLAIMS SUMMARY INFORMATION

Characteristics of Department of Defense Medical Malpractice Claims: An Initial Report. Report includes graphs and statistical information. {Granville MD, JD et al.} Issue 1992-1, pg. 1-10.

Characteristics of DOD Medical Malpractice Claims: An Update. Report includes graphs and statistical information. {Granville MD, JD et al.} Issue 1996, pg. 2-11.

Department of Veterans Affairs Analysis of Medical Malpractice Claims: An Initial Report. Report includes graphs and statistical information. {Granville MD, JD et al.} Issue 1993-1, pg. 1-9.

Department of Veterans Affairs Analysis of Medical Malpractice Claims: Initial Status Report. Report includes graphs and statistical information. {Fournier MA et al.} Issue 1994-1, pg. 21-22.

Department of Veterans Affairs Analysis of Medical Malpractice Claims FY 1993 Report. Report includes graphs and statistical information. {Granville MD, JD et al.} Issue 1995, pg. 41-46.

\*Pathology Claims Experience. Discussion of cases that allege substandard practice of pathology. Report includes graphs and statistical information. {Townsend MD, JD} Issue 1992-1, pg. 15-16.

Medical-Legal Journal Corner. Utilization of malpractice claims data for quality improvement. {Flannery MD, JD} Issue 1992-1, pg. 28-30.

A Threshold Question: How Do Payment Amounts in Medical Malpractice Claims Relate to the Medical Care Rendered? Discussion of relationship of payments to substandard care in DOD and the effect of monetary thresholds on reporting cases to the Databank. Includes graphs and statistics. {Granville MD, JD et al.} Issue 1994-1, pg. 5-10.

Medical Malpractice and the National Practitioner Data Bank. An overview of the National Practitioner Data Bank identifying the private sector requirements for reporting and the practitioner's right to challenge the information. {Granville MD, JD et al.} Issue 1997, pg. 7-11.

### OBSTETRICAL ISSUES

Medicolegal Issues of Intrapartum Monitoring: A Short Series. Part 1: Discussion of poor outcomes can be blamed on poor monitoring. {Armitage MD, JD} Issue 1992-1, pg. 11-14.

Medicolegal Aspects of Intrapartum Monitoring: A Short Series. Part 2: Continuation of the discussion of poor outcomes can be blamed on poor monitoring. {Armitage MD, JD} Issue 1993-1, pg. 10-17.

Medicolegal Aspects of Intrapartum Monitoring: A Short Series. Part 3: Continuation of the discussion of poor outcomes can be blamed on poor monitoring. {Armitage MD, JD} Issue 1993-2, pg. 1-8.

\*Medicolegal Grand Rounds-Misdiagnoses Involving Pregnancy. Failure to diagnose pregnancy and inaccurate estimation of gestational age continue to spawn litigation. {Flannery MD, JD} Issue 1995, pg. 39-40.

### OPHTHALMOLOGY ISSUES

\*Approach to the Acute Red Eye Patient. Discussion of a problem frequently seen by non-ophthalmologists which warrants a base line exam not requiring expensive equipment. Preventable errors and common problems are reviewed. {Lloyd MD} Issue 1995, pg. 36-39.

Case and Comment: Fundoscopy. Discussion of the appropriate need for visualization and recognition of papilledema and swelling of the optic nerve head in the evaluation armamentarium of all providers. {Connors MD, JD}. Issue 1992-1, pg. 17-19.

### PATHOLOGY ISSUES

\*Pathology Claims Experience. Discussion of cases that allege substandard practice of pathology. Report includes graphs and statistical information. {Townsend MD, JD} Issue 1992-1, pg. 15-16.

### NEUROLOGICAL ISSUES

Neuroimaging and the Courts: Part I. Discussion of how the courts have attempted to adjudicate cases that involve intracranial imaging. {Mawn MD, JD} Issue 1992-1, pg. 20-24.

Neuroimaging and the Courts: Part II. Discussion of how the courts have attempted to adjudicate cases that involve intracranial imaging. {Mawn MD, JD} Issue 1993-2, pg. 12-18.

\*Neck Pain. Two cases presented a common symptom which in general practice can be a harbinger of uncommon but serious disease. {Mawn MD, JD} Issue 1996, pg. 27-32.

### EMERGENCY ROOM /WALK-IN CLINICS

\*Pediatric Bacterial Meningitis. Reviews of cases. Although the numbers are low, the economic settlements are substantial. {Figelman MD et al.} Issue 1995, pg. 18-24.

\*Approach to the Acute Red Eye Patient. Discussion of a problem frequently seen by non-ophthalmologists which warrants a base line exam not requiring expensive equipment. Preventable errors and common problems are reviewed. {Lloyd MD} Issue 1995, pg. 36-39.

\*Diagnosing Testicular Torsion for the Primary Care Physician. This true medical emergency should be resolved in six to eight hours. Unnecessary delay is the most common basis for related legal actions. {Vogt MD, JD} Issue 1991-1, pg. 1,7-8.

\* Listed in more than one major category.

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\*Chest Pain in the Emergency Department: Adequacy of History-Taking and Documentation. A survey of 1529 emergency room physicians identify key elements to document in the medical record. {Flannery MD, JD et al.} Issue 1993-1, pg. 18-22.

Liability in the Diagnosis and Treatment of Myocardial Infarction. Information on the liability found in the PIAA database and analysis of 349 paid cases involving misadventures relating to myocardial infarctions. {Flannery MD, JD } Issue 1997, pg. 12-15.

\*Negligence in the Emergency Department Management of Chest Pain Part 1. Review of 694 ED claims revealed that 11 percent of the cases involved a significant myocardial event. {Granville MD, JD} Issue 1991-2, pg. 1-2.

\*Neck Pain. Two cases presented a common symptom which in general practice can be a harbinger of uncommon but serious disease. {Mawn MD, JD} Issue 1996, pg. 27-32.

\*Prostate Cancer Screening: Avoiding Liability. Overview of the legal duties a provider assumes when he decides to order a PSA or the responsibility he assumes if does not. {McLeod MD, JD et al} Issue 1997, pg. 2-6.

### INFORMED CONSENT ISSUES

The Supreme Court and the Right to Die. 1990 decision regarding the withdrawal of variant forms of life sustaining medical interventions. {Connors MD, JD} Issue 1991-1, pg. 2,4.

\*Informed Consent. Discussion of What, How much, and from Who's perspective; an in-depth review of the process. {Mawn MD, JD} Issue 1994-2, pg. 1-6.

Healthcare Decisions and Third Parties. Case discussions of the dilemma of clinical circumstances that occur that require third parties to make health care decisions for patients. {Kaar, JD et al} Issue 1997, pg.19-21.

### CLINICAL RELATED ISSUES

\*Diagnosing Testicular Torsion for the Primary Care Physician. This true medical emergency should be resolved in six to eight hours. Unnecessary delay is the most common basis for related legal actions. {Vogt MD, JD} Issue 1991-1, pg. 1, 7-8.

\*Pediatric Bacterial Meningitis. Reviews of cases. Although the numbers are low, the economic settlements are substantial. {Figelman MD et al.} Issue 1995, pg. 18-24.

\*Approach to the Acute Red Eye Patient. Discussion of a problem frequently seen by non-ophthalmologists that warrants a base line exam not requiring expensive equipment. Preventable errors and common problems are reviewed. {Lloyd MD} Issue 1995, pg.36-39.

Delay in Diagnosis of Breast Cancer . Discussion of early treatment and diagnosis and the use of screening tools. {Weiss MD} Issue 1993-2, pg. 19-20.

Breast Cancer Malpractice Claims. Case review and summary of DOD and PIAA claims experience espousing 6 tenants relative to the diagnosis and treatment of these patients. {Connors MD, JD} Issue 1996, pg. 17-22.

\*Neck Pain. Two cases presented a common symptom which in general practice can be a harbinger of uncommon but serious disease. {Mawn MD, JD} Issue 1996, pg. 27-32.

\*The 1993 PIAA Medication Error Study: A Summary. An analysis of paid claims related to medication errors in 6,646 cases. {Connors MD, JD} Issue 1994-2, pg. 13-16.

Upper Gastrointestinal Tract Bleeding: A Study from the DOD Civilian External Peer Review Program. 3,294 cases were evaluated for patient demographics, mortality rate, diagnostic and therapeutic measures used. {Martin RN, Ph.D., JD} Issue 1994-2, pg. 23-26.

Laparoscopic Cholecystectomy. A historic review of the procedure with a review of the claims history relative to the procedure using a PIAA survey of 615 claims reported at that time. {Connors MD, JD} Issue 1995, pg. 2-9.

Laparoscopic Cholecystectomy: A Study from the DOD Civilian External Peer Review Program. This is a summary of 5,607 cases in the DOD Healthcare system and the clinical outcomes and resource implications associated with the procedure. {Martin RN, Ph.D., JD} Issue 1995, pg. 10-12.

Case Reviews: Orthopedic Claims. Retrospective review of 244 Orthopedic medical malpractice claims filed against the government from 1975 to 1989. {Pollack MD} Issue 1991-1, pg. 5,8.

\*Prostate Cancer Screening: Avoiding Liability. Overview of the legal duties a provider assumes when he decides to order a PSA or the responsibility he assumes if does not. {McLeod MD, JD et al} Issue 1997, pg. 2-6.

Liability in the Diagnosis and Treatment of Myocardial Infarction. Information on the liability found in the PIAA database and analysis of 349 paid cases involving misadventures relating to myocardial infarctions. {Flannery MD, JD } Issue 1997, pg. 12-15.

### PHYSICIAN LIABILITY TO THIRD PARTIES

\*Legal Duties Involving Physicians, Patients and Third Parties. How the law viewed a physician's duty prior to *Tarasoff* {Armitage MD, JD} Issue 1994-2, pg. 7-12.

\*Legal Duties Involving Physicians, Patients and Third Parties: Part Two. The impact on the duty of physicians to protect third parties by the *Tarasoff* decision in California. {Armitage MD, JD} Issue 1995, pg. 25-35.

\*Liability for Patient Release. Discusses the risk to a patient or to a third party in relation to the release of a patient from a hospital setting. {Flannery MD,JD.} Issue 1991-2 pg. 3,7.

\* Listed in more than one major category.

Physicians' Duties to Patients and Third Parties Further Defined. Discussions of two recent cases dealing with the duty to warn those who are likely to become infected with HIV as foreseeable victims. {Kaar JD} Issue 1997, pg. 27-30.

## MEDICAL RECORDS AND DOCUMENTATION

\*Informed Consent. Discussion of What, How much, and from Who's perspective; an in-depth review of the process. {Mawn MD, JD} Issue 1994-2, pg. 1-6.

**Medical Records.** Comprehensive review of the pitfalls of medical record documentation and impact on the resolution of the medical malpractice cases in court. {Rasinski MD, JD} Issue 1995, pg. 13-17.

## MEDICATION ERRORS

**Avoiding Liability for Drug-Induced Disease.** Drug effects are a very large contributor to iatrogenic events causing alteration to body function in patients. {Bianco MD, JD} Issue 1991-1, pg. 3,6.

\*The 1993 PIAA Medication Error Study: A Summary. An analysis of paid claims related to medication errors in 6,646 cases. {Connors MD, JD} Issue 1994-2, pg. 13-16.

**Iatrogenic Drug Related Disease.** No special training is necessary to avoid liability in drug induced diseases. {Bianco MD, JD} Issue 1997, pg. 16-18.

## MISCELLANEOUS

Medical Malpractice Rounds. Three issues discussed: Impact of patient's failure to disclose symptoms and the legal implications; Liability for acts of triage personnel; Courts favor intermediate standard of care. {Flannery MD, JD} Issue 1992-1, pg. 25-27.

Medicolegal Grand Rounds: Patient Negligence. Discussion of contributory and comparative negligence by the patient and its impact in medical malpractice. {Flannery MD, JD} Issue 1994-1, pg. 11-14.

Medicolegal Grand Rounds- Liability for Mental Anguish Based on the Negligent Disposition of Remains. Discusses the issue of the surviving spouse or next of kin and the disposition of the remains and custody of the body after death. {Flannery MD, JD} Issue 1994-2, pg. 17-18.

\*Medicolegal Grand Rounds-Misdiagnoses Involving Pregnancy. Failure to diagnose pregnancy and inaccurate estimations of gestational age continue to spawn litigation. {Flannery MD, JD} Issue 1995, pg. 39-40.

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From the Supreme Court: Overseas Military Medical Malpractice Claims. Amendment of the FTCA with provision “Liability Reform Act” seeks to insulate military providers overseas from personal suit in claims filed while on overseas duty. {Connors MD, JD} Issue 1991-2, pg. 5.

Medical Disability versus Medical Malpractice: Compensation for Injury/Disability and the Department of Veterans Affairs. Examination of interim cases where disability resulted from VAMC treatment and the laws which govern disability compensation. Discussion of the changes in the law to require evidence of fault. {Whittington JD} Issue 1997, pg. 22-26.

Civilian External Peer Review Program. An overview of the program and its potential to identify opportunities to improve care. {Martin RN, Ph.D., JD et al.} Issue 1993-2, pg. 21-22.

Case and Comment: Communication of Diagnostic Studies. Overviews of several cases where communication of panic values between providers failed and created claims. {Conners MD, JD} Issue 1993-2, pg. 9-11.

Case and Comment: House Officers. Discussion of the level of supervision of trainees and the level of standard of care determination by the courts. {Connors MD, JD} Issue 1994-1, pg. 1-4.

**\*Legal Duties Involving Physicians, Patients and Third Parties.** How the law viewed a physician's duty prior to *Tarasoff* {Armitage MD, JD} Issue 1994-2, pg. 7-12.

\*Legal Duties Involving Physicians, Patients and Third Parties: Part Two. The impact on the duty of a physician to protect third parties by the *Tarasoff* decision in California. {Armitage MD, JD} Issue 1995, pg. 25-35.

The Physician-Patient Continuum. Discusses a novel paradigm applied to 50 cases and the relationship with communication breakdowns, adverse outcomes and claims. {Moore MD, JD} Issue 1994-2, pg. 19-22.

Personal Civil Liability for Military Health Care Workers. Discussion of personal liability of military health care providers. Much of this discussion applies to providers in the federal sector. {Henebery JD} Issue 1994-1, pg. 15-20.

Expert Testimony in Medical Malpractice Litigation. The importance of expert testimony to resolve issues of professional negligence. {Dowd JD} Issue 1996, pg. 33-38.

**Managed Care Liability.** Discusses areas of liability due to restrictions placed on providers in the managed care arena. {Flannery MD, JD} Issue 1996, pg. 12-16.

Medical Practice Guidelines: Is Cookbook Medicine Here? Discussion of implications for improvement of care vs. limitations to the ability to practice vs. protection against claims of negligence. {Oetgen MD et al.} Issue 1996, pg. 23-26.



Individual copies of these articles will be available on the Armed Forces Institute of Pathology, Department of Legal Medicine, Website: <http://www.afip.mil/homes/legalmed.html>.